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Delaware legislators introduce bill to remove race question from marriage license applications

DOVER – A new bill introduced in the Senate last week would remove race from the list of questions the State of Delaware includes on its marriage license application forms.

Currently, Delaware is one of only a few states that still prompts couples to list their race.

Sen. Bryan Townsend, D-Newark/Bear, began working on the bill in September, after becoming aware of [a federal lawsuit filed in Virginia](#) challenging a similar law in that state. [A federal judge ruled in October](#) that Virginia’s law requiring the disclosure of race on marriage license applications is unconstitutional.

“This legislation reaffirms our value that love transcends race and moves us one step further away from our clouded past prohibition on interracial marriage,” Senator Townsend said. “Our county and state agencies have made it clear that we no longer need this question and do not even collect this data in a statistically-reliable way, and for good reason. While some Delawareans might not think twice about the question — indeed, my own wife and I seem to have missed it in 2014 — others will and, with the Virginia ruling, we also should make this change before Delaware faces similar lawsuits.”

The race question on Delaware’s form dates back to a time in the First State when some interracial marriages were banned by law – a practice that started here sometime around 1805.

Even as late as 1967, Delaware law provided that “Marriage between a white person and a negro or mulatto ... shall be unlawful.”

Such laws were invalidated by the landmark Supreme Court decision in *Loving v. Virginia*, which held that laws banning interracial marriage violated the Equal Protection and Due Process Clauses of the 14th Amendment to the U.S. Constitution.

But it wasn’t until 1985, when **Sen. Harris McDowell, D-Wilmington**, moved to officially repeal those laws, that the process to remove those sections of Delaware Code began.

“This bill is, in a sense, the final step in a process that started many decades ago,” Senator McDowell, a co-sponsor of Senate Bill 194. “There is no discernable reason we should still be asking any couple about their racial background. This legislation will delete just one word, but it signifies, in my mind, a more profound step forward for all Delawareans.”

Rep. Kendra Johnson, the House prime sponsor of SB 194, described the legislation as a small, but significant change that will help to correct decades of institutional racism.

“The courts have now ruled what our minds and hearts have known for years – that the arbitrary question of race has no place on a marriage license,” Rep. Johnson said. “As we move forward as a state, I am proud that we are taking steps such as these toward true equality in our daily lives. With these small changes, one by one, we make a big difference.”

[Senate Bill 194](#) is scheduled for a hearing before the Senate Health and Social Service Committee on Jan. 15.

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